

**Notice of Allowability**

Application No.

10/535,185

Applicant(s)

NISHIZAWA ET AL.

Examiner

Eisa B. Elhilo

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed November 2, 2007.
2. ☒ The allowed claim(s) is/are 1-9 and 11-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date 11/2/2007
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 11/2/2007.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

/Eisa Elhilo/  
Primary Examiner, A.U. 1796

12/13/2007

### **DETAILED ACTION**

- 1 This action is responsive to the amendment filed on November 2, 2007.
- 2 Upon further reviewing the teaching of the closest prior art of record (US 6,540,791 B1), it is found that the prior art of record (US' 791 B1) teaches a dyeing composition comprising polydimethylsilicone polymers having a formula (XV) in which the polymerization silicone has a number degree of polymerization of 1 to 8,000 (see col. 17, formula (XV) which is overlapped with the claimed range. Therefore, the anticipation rejection under 102(e) has been withdrawn.

### **EXAMINER'S AMENDMENT**

- 3 An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Marina I. Miller on December 11, 2007.

The application has been amended as follows:

#### **In the claims:**

Please cancel claim 10.

In claim 1, in line 3, after the term "greater" insert --wherein said highly polymerized silicone is at least one selected from the group consisting of methylpolysiloxane, methylphenylpolysiloxane and hydroxyl terminal dimethylpolysiloxane--.

In claim 2, in line 3, after the term "and" insert --further--.

In claim 2, in line 3, after the term "other silicones" insert -- which are not amino-modified silicones and highly polymerized silicones --.

In claim 2, in line 3, delete "such".

In claim 11, in line 2, replace the term "other silicon" with -- further other silicones--.

4      Claims 1-9 and 11-14 are allowed.

#### STATEMENT OF REASONS FOR ALLOWANCE

5      The following is an examiner's statement of reasons for allowance:

Applicants submitted a declaration filed on November 2, 2007 to overcome any obviousness rejection that may be raised, because the comparative data in the declaration demonstrates that the claimed dyeing composition that comprises a highly polymerized silicone processes higher and superior color intensity (63.7) and better color fastness against shampoo (3.0) than the dyeing composition of the prior art that provides lower color intensity (61.1) and poor color fastness (5.5). Accordingly, the claimed subject matter as a whole would not have been obvious to one having ordinary skill in the art of hair dyeing formulation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pyon Harold can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eisa Elhilo/  
Primary Examiner, A.U. 1796

December 13, 2007